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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,529	12/22/2000	James M. Sheppard JR.	2827	2077

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EXAMINER
BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 05/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-11

Advisory Action	Application No.	Applicant(s)	
	09/747,529	SHEPPARD, JAMES M.	
	Examiner	Art Unit	
	Jenna-Leigh Befumo	1771	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☒ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *21-36*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: While the additional information supplied by the Applicant has been considered, this information is not sufficient to overcome the prior art. First, it is noted that while the sales figures for the invention do show that the sales of the product increased, this information is not conclusive. These figures show the total sales for the edge towels increases as the number of styles of towels the company sells decreases. Thus, there are less other towels the company can sell. Further, it would be expected that 2001 would have more sales than 2000 since this was the first year the product was sold. And while it is not mentioned it is presumed that the towel wasn't sold the entire year of 2000 since the Applicant states in the Affidavit that this was the year it was introduced. Finally, This information does not give a good idea of how the towel did as compared to other products sold by competitive companies. Second, the Applicant is required to establsh a nexus between the invention and commercial success. In other, words the Applicant, must show that the point which the rejection states is obvious, is not obvious as demonstrated by the commercial success and other secondary considerations. In this case, it would seem that printing onto woven towels, is the combination which produced the commercial success. However, the art rejection, does not rely on the prior art to teach printing on a woven towel, but instead to teach that design of the towel can be modified to produce fabrics with different patterns and colors. The primary reference already discloses that the woven towel is printed on, it just fails to teach the same design limitations as those claimed. Thus, the commercial success must be due to the design limitations and not the fact the printing is applied to the towel. Finally, with respect to the art rejection, the Applicant argues that Hobson and Carpenter cannot be combined. However, both references are drawn to producing printed woven towels. Even though Hobson prefers using dobby looms, while Carpenter prefers jacquard looms, this does not exclude the combination of the two references. First, Carpenter is relied on for background information of the printed woven towel art which refers to dobby and cam looms, and not to teach using jacquard looms. Second, as set forth previously the limitation that the fabric is produced on a jaquard loom is a method limitation and it not given weight at this time since dobby and jaquard looms can be used to produce woven products with similar structures.

CHERYL A. JUSKA
PRIMARY EXAMINER